IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA
MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA, 1929

WP(C).No. 14988 of 2007(H)

PETITIONER:

P. PRABHAKARAN, CHAKALATHARAYIL VEEDU,
PUTHEN SANGETHAN, THEVALAKARA,
KOIVILA P.O., KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:
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1. THE SUPERINTENDENT OF POLICE,
KOLLAM.

2. THE CIRCLE INSPECTOR OF POLICE,
PARAVOOR, KOLLAM.

3. THE SUB INSPECTOR OF POLICE,
PARAVOOR, KOLLAM.

4. B.K.SUNILKUMAR, POURNAMI,
PUTHENKULAM POST, N.PARAVOOR,
KOLLAM DISTRICT.

5. SHYLAJA RAJAN,
KESAVA VILASOM, DO. DO.

6. A. MOHANAN, PITCHI NIVAS, DO. DO.

ADDL. 7. THE ASSISTANT EXCISE COMMISISIONER, KOLLAM.
(ADDL R7 IS IMPLEADED AS PER ORDER DATED 11/6/2007 IN I.A.NO.6586/2007)

R1 TO R3 BY GOVT.PLEADER SRI K.C.SANTHOSH KUMAR

R4 BY ADV. SRI.HARISH GOPINATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

W.P.(C).NO.14988/2007

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COY OF THE LICENCE DTD. 4/5/2007.

EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 9/5/2007 FILED BY THE PETITIONER BEFORE THE CIRCLE INSPECTOR OF POLICE.

RESPONDENTS' EXTS:

EXT.R4(A) TRUE COPY OF THE REPRESENTATION DATED. 17.5.2007.

EXT.R4(B) TRUE COPY OF THE REPRESENTATION DATED. 17/5/2007 TO THE ASST. EXCISE COMMISSIONER, KOLLAM.

EXT.PR4(C) TRUE COPY OF THE REPRESENTATION DATD 10/5/2007 TO C.I. OF POLICE, PARAVUR.

// TRUE COPY//

P.S. TO JUDGE.

knc/-

P.R. RAMAN & K. HEMA, JJ.

W.P.(C) NO. 14988 OF 2007

DATED THIS, THE 11TH DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Petitioner is one of the licensees in respect of Toddy Shop No. 25, Thalakkulam, Chathanoor Range. According to him, Respondents 4 to 6 and their henchmen are creating obstruction for the smooth functioning of the shop. Apprehending danger to petitioner's life and also to remove the obstruction so as to enable him to carry on the business in terms of Ext.P1 licence, though he has approached the police, in the absence of any effective steps taken by them, he has approached this Court seeking appropriate relief.

2. Respondents 4 to 6 entered appearance and they filed a counter affidavit. According to them, they are not causing any physical obstruction as alleged and even they pointed out that no such instances are also made out in the pleading. According to them, they are conducting a peaceful agitation to press their legal right. According to them, they are devotees and a Siva Temple is within the prohibited distance of 341 meters from the toddy shop. Complaints were also made to the authorities namely, to the

District Collector, Assistant Excise Commissioner and the Circle Inspector of Police, Paravur, Kollam, as evidenced by Exts.R4(a), R4(b) and R4(c), which are pending consideration. They pray that the conduct of the toddy shop being in violation of the rules, petitioner has no legal right to run the shop.

3. We have heard counsel on both sides. The learned Government Pleader appearing on behalf of the State submits that the Assistant Excise Commissioner will dispose of Ext.R4(b) expeditiously. Since the petitioner has been issued with a license Ext.P1, in case there is any physical obstruction caused, police authorities will give adequate protection.

4. So long as the petitioner is running the toddy shop strictly in compliance with Ext.P1, and in so far as no authorities have passed any order prohibiting the business or suspended or canceled the license Ext.P1, there cannot be any physical obstruction caused to such business carried on by the petitioner. Hence in case there is any physical obstruction caused for carrying on the business, police authorities shall see that no such obstruction is caused and shall remove the obstruction, if any caused. This will not stand in the way of respondents 4 to 6 in continuing their agitation in a peaceful manner including dharna, if any. Since they have also made a compliant Ext.R4(b) before the Assistant Commissioner of Excise, the

same shall be considered and disposed of by him, within a period of two weeks, after affording an opportunity to Respondents 4 to 6 and also to the petitioner of being heard. In case it is found that the shop is functioning within a prohibited distance, appropriate orders shall be passed by the Assistant Excise Commissioner, in accordance with law.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-